

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

In re:)	
)	
STATE SUPERINTENDENT)	Decision of Disapproval
OF PUBLIC INSTRUCTION)	of Regulatory Action
)	
REGULATORY ACTION:)	(Gov. Code, sec. 11349.3)
)	
Title 5, California Code of Regulations)	
)	OAL File No. SPI 2008-0125-02S
Adopt sections 18085.5, 18086.1)	
)	
Amend sections 18086, 18087, 18088,)	
18091, 18101, 18102,)	
18104)	
_____)	

DECISION SUMMARY

This regulatory action involves adoption of and amendments to regulations governing the Child Care and Development Services Act program regarding, among other things, documentation of family eligibility and needs. On March 11, 2008, the Office of Administrative Law (OAL) notified the State Superintendent of Public Instruction (SPI) that the regulatory action was disapproved for incorrect procedure. The rulemaking file does not contain a Standard Form 399 (STD. 399) that has concurrence from the State Department of Finance (DOF).

INCORRECT PROCEDURE

California Government Code section 11347.3(b)(5) requires that a rulemaking file contain the estimate, together with the supporting data and calculations, required by section 11346.5(a)(6). Section 11346.5(a)(6) identifies, in pertinent part, the estimate of the cost to any state agency and defines cost as additional cost, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations. California Government Code section 11357 requires that the DOF adopt instructions for inclusion in the State Administrative Manual (SAM) prescribing the methods that any agency shall use in making the estimate required by section 11346.5(a)(6).

For purposes of reporting this estimate, and other information, the DOF has developed, and requires regulatory agencies to use, the STD. 399. (SAM section 6650.) Specifically, at SAM section 6660, the DOF has established when financial estimates contained in an STD. 399 require the concurrence of the DOF. Section 6660 states:

A state agency is not required in all instances to obtain the concurrence of DOF in its estimate of the fiscal effect of its proposed regulation on governmental entities. However, such concurrence is required for those estimates which contain any of the following elements, as depicted on STD. 399:

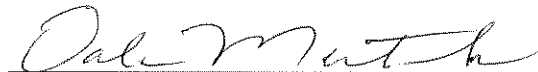
A.1-Reimbursable Local Costs	B.1-State Costs
A.2-Non-Reimbursable Local Costs	B.2-State Savings
A.3-Local Savings	

In this rulemaking file, the STD. 399 identifies unspecified additional state expenditures in item B.1, which the SPI estimates it will be able to absorb within its existing budget and resources. The STD. 399, therefore, requires DOF concurrence. The rulemaking file does not contain an STD. 399 which includes DOF concurrence and, therefore, cannot be approved.

CONCLUSION

For the reasons set forth above, the OAL has disapproved the proposed adoption of sections 18085.5 and 18086.1 and the amendment of sections 18086, 18087, 18088, 18091, 18101, 18102, and 18104 of Title 5 of the California Code of Regulations.

Date: March 13, 2008



Dale Mentink
Senior Staff Counsel

For: SUSAN LAPSLEY
Director

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